

AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
FOR ALASKAN MEDIUM-SIZE SUCTION DREDGE PLACER MINERS

General Permit No.: AKG-37-1000

In compliance with the provisions of the Clean Water Act (CWA), 33 U.S.C. § 1251 et seq.,
as amended by the Water Quality Act of 1987, P.L. 100-4, the "Act",

Owners and operators of facilities engaged in the processing of placer gold by suction
dredging are authorized to discharge to waters of the United States, except
those sites excluded from coverage in Part I. of this NPDES permit,

are authorized to discharge only in accordance with effluent
limitations, monitoring requirements, and other provisions set forth herein in accordance
with effluent limitations, monitoring requirements, and other conditions set forth herein.

**A COPY OF THIS GENERAL PERMIT MUST BE KEPT AT THE SITE
WHERE DISCHARGES OCCUR.**

[Facility Name]

[Receiving Water]

This permit became effective on October 4, 2005.

This permit and the authorization to discharge under this permit shall expire at
midnight on October 4, 2010.

Signed this 24th day of August, 2005.

/s/ Robert R. Robichaud for

Michael F. Gearheard

Director

Office of Water & Watersheds

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I. COVERAGE UNDER THIS PERMIT

A. Coverage and Eligibility

1. Existing Facilities (those suction dredge facilities having coverage under the 2000 Alaska placer miner general permit): Owners or operator of facilities covered by the 2000 General Permit are eligible for coverage under this GP. See Permit Part I.F. for notification information.
2. New Facilities/Recommencing Facilities: Upon submittal of an NOI in accordance with 40 CFR 122.21(a), all suction dredge facilities that meet the criteria for coverage under this permit will be granted coverage.
3. Expanding Facilities: Suction dredge facilities that contemplate expanding shall submit a new NOI that describes the new discharge. The current permit may be terminated and a new permit, reflecting the changes, may be issued in its place if the facility meets all the necessary requirements of coverage.

Authorization to discharge requires written notification from EPA that coverage has been granted and that a specific permit number has been assigned to the operation.

B. Covered Placer Mining Operations

1. This permit authorizes placer mining by suction dredges with intake nozzles less than or equal to 10 inches and greater than 6 inches; and
2. Hose size shall not be greater than 2 inches larger than the nozzle size. If a constrictor ring is used, nozzle size may be determined based on the size of the constrictor ring, provided that the ring is of solid, one-piece construction with no openings other than the intake and openings not greater than one inch between the constricting ring and nozzle, and that the ring is welded or otherwise permanently attached over the end of the intake nozzle.

C. Prohibitions

1. This general permit does not apply to facilities that are proposed to be located in National Parks System Units (i.e., Parks and Preserves), National Monuments, National Sanctuaries, National Wildlife Refuges, National Conservation Areas, National Wilderness Areas, National Critical Habitat Areas, within one nautical mile of a Steller sea lion rookery or haulout area, or waters adjacent to areas designated as wild under the Wild & Scenic Rivers Act.

National Critical Habitat Areas have been designated for both the spectacled and Steller's eiders under the Endangered Species Act (ESA). A map in Appendix B shows the general areas of the habitat. If your facility is proposed for any of the following quadrangles:

Wainwright	Solomon	St. Lawrence	Hooper Bay
Point Lay	Norton Bay	Chignik	Marshall
Point Hope	Unalakleet	Cold Bay	Baird Inlet
De Long Mountains (D-4, D-5)	St. Michael	Port Moller	Ninivak Island
			Kuskokwim Bay

please consult the Fairbanks office of the US Fish and Wildlife Service (USFWS) at (907) 456-0499 or the Federal Register at 66 FR 8849 February 2, 2001, and 66 FR 9145 February 6, 2001, for further details

2. This permit does not apply to wetlands designated in the 1995 Anchorage Wetlands Management Plan.

D. Additional Requirements

1. Many streams and stream reaches in Alaska have been designated as part of the federal wild and scenic rivers system or as Conservation System Units (CSUs) by the federal government. Permittees should contact the district offices of the federal agencies that administer the designated area for additional restrictions that may apply to operating within the area.
2. Many streams in Alaska where placer mining occurs have been designated by the Alaska Department of Natural Resources(ADNR)/ Office of Habitat Management and Permitting (OHMP) as anadromous fish streams. Placer mining activities in these streams require a Fish Habitat Permit that may include additional restrictions. The "Atlas to the Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fish" lists the streams in the State that require prior OHMP authorization. In addition, placer mining activities in resident fish streams require a Fish Habitat Permit if the proposed activity will block or impede the efficient passage of fish. Permittees operating in anadromous or resident fish streams must contact the OHMP (see Permit Part II.C.2.) to determine permitting requirements and additional restrictions that may apply.

E. Requiring an Individual Permit

1. The Regional Administrator may require any person authorized by this permit to apply for and obtain an individual NPDES permit when:
 - a. The single discharge or the cumulative number of discharges is/are a significant contributor of pollution;
 - b. The discharger is not in compliance with the terms and conditions of the general permit;
 - c. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;
 - d. Effluent limitations guidelines are subsequently promulgated for the point sources covered by the general permit;
 - e. A Water Quality Management Plan containing requirements applicable to such point sources is approved;
 - f. A Total Maximum Daily Load (TMDL) and corresponding wasteload allocation has been completed for a waterbody or a segment of a waterbody;
 - g. Circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary.
2. The Regional Administrator may deny coverage under this permit in the following circumstances:
 - a. a land management agency with jurisdiction over affected portions of the receiving water, bed or affected uplands submits a request that general permit coverage be denied to EPA within thirty (30) days of the agency's receipt of an NOI; and,
 - b. the land management agency's request includes proposed additional or revised permit terms that the requesting agency believes -- based upon evidence attached to or cited in the request -- are necessary to protect the natural values of the affected location; and,
 - c. the land management agency's request concerns a person who either;

- i. seeks to discharge into U.S. waters located in National Recreation Areas, National Historic or Natural Landmarks, congressionally designated Land Use Designation (LUD) II which are to be managed in a roadless state, or in State Refuges, Sanctuaries, or Critical Habitat Areas; or,
 - ii. is in significant noncompliance with the terms and conditions of the most recent applicable NPDES permit; or,
 - iii. intends to discharge into waters designated as impaired or polluted under the Clean Water Act.
- d. when the US Fish & Wildlife Service believes that consultation under Section 7 of the Endangered Species Act is necessary for facilities proposed in or near marine coastal waters in the following listed Alaska quadrangles to protect Steller's eiders, spectacled eiders, sea otters, or their habitat.

Kodiak	Kaluk	Bristol Bay	Atka
Kaguyak	False Pass	Sutwik Island	Adak
Ugashik	Nushagak Bay	Stepovak Bay	Gareloi Island
Naknek	Samalga Island	Simeonof Island	Rat Island
Seldovia	Goodnews Bay	Unimak	Kiska
Dillingham	Hagemeister Island	Unalaska	Attu
Cape	Mt. Katmai	Umnak	Pribilof Islands
Mendenhall	Afognak	Amukta	
Trinity Islands	Iliamna	Sequiam	

Any person denied coverage under this part must apply for and obtain coverage under either (1) an individual permit; or (2) another applicable watershed-specific general permit. Upon receipt of any such application, EPA will determine whether the permit terms requested by the land management agency should be included in the applicable permit.

- 3. The Regional Administrator will notify the operator in writing by certified mail that a permit application is required. If an operator fails to submit an individual NPDES permit application by the date required in the notification, coverage under this general permit is automatically terminated at the end of the day specified for application submittal.
- 4. Any owner or operator authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit. The owner or operator shall submit an individual application (Form 1 and Form 2C) with reasons supporting the request to the Regional Administrator at the address in paragraph I.F.4.

5. When an individual NPDES permit is issued to an owner or operator otherwise covered by this permit, the applicability of this permit to the facility is automatically terminated on the effective date of the individual permit.
6. When an individual NPDES permit is denied to an owner or operator otherwise covered by this permit, the Permittee is automatically reinstated under this permit on the date of such denial, unless otherwise specified by the Regional Administrator.
7. A source excluded from a general permit solely because it already has an individual permit may request that the individual permit be revoked and that it be covered by the general permit. Upon revocation of the individual permit, the general permit shall apply to the source.

F. Notification Requirements

1. Owners or operators of facilities eligible for this permit shall submit an NOI to be covered by this permit. The information required for a complete NOI is in Appendix A of this permit. Notification must be made:
 - a. Owners or operators of existing facilities that submitted a new Notice of Intent (NOI, OMB #2040-0086, expiration date 8/31/98) prior to the expiration date of the 2000 GP shall be automatically covered by this GP.
 - b. 60 days prior to discharge from a new, recommencing or expanded facility; or
2. An Annual Placer Mine Application (APMA) will be accepted as an NOI if all the required information is included and the APMA is signed as required in paragraph 3, below.
3. The NOI shall be signed by the owner or other signatory authority in accordance with Permit Part V.H. (Signatory Requirements), and a copy shall be retained on site in accordance with Permit Part III.F. (Retention of Records). The address for NOI submission to EPA is:

USEPA - Alaska Operations Office
Placer Mining NOI
222 W. 7th Avenue, Box #19
Anchorage, Alaska 99513

4. A copy of the NOI must also be sent to the Alaska Department of Environmental Conservation (ADEC). The address is:

Alaska Department of Environmental Conservation
610 University Avenue
Fairbanks, Alaska 99709.

5. Permittees who do not use the APMA procedure for filing their NOI with ADNR shall send a copy of the NOI to:
- a. the Federal, State, or local agency that manages or owns the land in which the mine is located or proposed to be located. The addresses are:

<u>Anchorage Area</u>	<u>Fairbanks Area</u>	<u>Glennallen Area</u>
U.S. Department of Interior BLM 222 West 7th Avenue, #13 Anchorage, AK 99513-7599	U.S. Department of Interior BLM 1150 University Avenue Fairbanks, AK 99709	U.S. Department of Interior BLM P.O. Box 147 Glennallen, AK 99588
U.S. Department of Interior Fish and Wildlife Service 1011 E Tudor Rd. Anchorage, AK 99503	U.S. Department of Interior Fish and Wildlife Service 101 12th Avenue, Box 19 Fairbanks, AK 99701	U.S. Department of Interior National Park Service Wrangell St. Elias P.O. Box 439 Copper Center, AK 99573
<u>Anchorage - cont.</u> U.S. Department of Interior National Park Service 605 West 4th Avenue, Suite 104 Anchorage, AK 99501	<u>Fairbanks - cont.</u> U.S. Department of Interior National Park Service 250 Cushman, Suite 1A Fairbanks, AK 99701	<u>Tok Area</u> U.S. Department of Interior BLM P.O. Box 309 Tok, AK 99780
<u>Nome Area</u>	<u>Juneau Area</u>	
U.S. Department of Interior Bureau of Land Management P.O. Box 925 Nome, AK 99762	U.S. Department of Interior Fish and Wildlife Service 3000 Vintage Blvd, Suite 201 Juneau, AK 99801	
U.S. Department of Interior National Park Service P.O. Box 220 Nome, AK 99762	U.S. Department of Interior National Park Service P.O. Box 21089 Juneau, AK 99802-1089	

- b. the regional office of ADNR/OHMP nearest the location of the dredge. The addresses are:

Anchorage Area
333 Raspberry Road
Anchorage, AK 99518

Nome Area
Pouch 1148
Nome, AK 99762

Tok Area
P.O. Box 779
Tok, AK 99780

Glennallen Area
P.O. Box 47

Juneau Area
P.O. Box 25526

Fairbanks Area
1300 College Road

Glennallen, AK 99588

Juneau, AK 99802

Fairbanks, AK 99701

7. A copy of the general permit will be sent to the Permittee when it is determined that the facility can be authorized under this general permit. If it is determined that a facility cannot be authorized to discharge under this permit, the applicant will be informed of this in writing.

G. Permit Expiration

This permit will expire 5 years from the effective date. For facilities submitting a new NOI 90 days prior to expiration of this general permit, the conditions of the expired permit continue in force until the effective date of a new permit.

II. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

A. Effluent Limitations

1. Freshwater:
 - a. A visual increase in turbidity (any cloudiness or muddiness) 500 feet downstream of the suction dredge during operations is considered a violation of this permit.
 - b. If noticeable turbidity does occur 500 feet downstream of the work site, operation of the suction dredge must decrease or cease so that a violation as defined above does not exist.
2. Marine
 - a. A visual increase in turbidity (any cloudiness or muddiness) outside a 500 foot radius of the suction dredge during operations is considered a violation of this permit.
 - b. If noticeable turbidity does occur outside a 500 foot radius of the work site, operation of the suction dredge must decrease or cease so that a violation as defined above does not exist.

B. Monitoring Requirements

1. Suction dredge operators shall visually monitor for turbidity, as defined in Permit Part II.A., once per day of operation. Individuals who conduct visual monitoring shall observe the turbidity plume, where visible, immediately downstream or radially from the dredge until the turbidity plume is no longer visible and note the distance. There is no need to monitor farther if the turbidity plume blends with the background before 500 feet.

All turbidity monitoring results shall be recorded daily. The Permittee shall maintain records of all information resulting from any visual inspections.

2. The Permittee will report the period of suction dredging in the Annual Report (AR). Visual violation occurrences will also be reported on the AR along with the measures taken to comply with the provisions of Permit Part II.A.

C. Best Management Practices

1. Dredging is permitted only within the active stream channel. Dredging within the active stream channel that results in undercutting, littoral channeling or that otherwise results in erosion of a stream bank or a beach, is prohibited.
2. Dredging and discharging are prohibited within 500 feet of locations where anadromous fish are spawning or where anadromous fish eggs or alevins are known to exist at the time dredging occurs. Each Permittee shall consult the regional office of the ADNR/OHMP for the region in which the Permittee proposes to operate a dredge in order to obtain the information necessary to comply with this BMP. Each Permittee shall report the information obtained from OHMP, and the name and title of the official contacted, to EPA concurrently with the NOI.
3. Motorized winches or other motorized equipment shall not be used to move boulders, logs, or other natural obstructions within the active stream channel.
4. If an ADNR/OHMP Fish Habitat Permit (Title 41 Permit) is necessary, no wheeled or tracked equipment may be used instream while dredging is in progress unless it is allowed by a Title 41 permit.
5. Suction dredges shall not operate within 800 feet of another dredging operation occurring simultaneously.
6. Dredging of concentrated silt and clay should be avoided. The permittee shall use reasonable care to avoid dredging silt and clay materials that would result in a significant increase in turbidity. Reasonable care includes moving the dredge to a new location or reducing the volume of effluent discharge by limiting operation speed of the suction dredge.
7. Care shall be taken by the operator during refueling of the dredge to prevent spillage into surface waters or to groundwater. Any spills shall be cleaned up using materials such as sorbent pads and

booms. All spills shall be reported to ADEC by calling 1-800-478-9300.

D. Other Requirements

The operator shall maintain fuel handling and storage facilities in a manner which will prevent the discharge of fuel oil into the receiving waters or on the adjoining shoreline. A Spill Prevention Control and Countermeasure Plan (SPCC Plan) shall be prepared and updated as necessary in accordance with provisions of 40 CFR Part 112 for facilities with the capacity to store 660 gallons in a single container above ground, 1320 gallons in the aggregate above ground, or 42,000 gallons below ground.

The Permittee shall indicate in the AR if an SPCC Plan is necessary and in place at the site and if changes were made to the Plan over the previous year.

III. MONITORING AND REPORTING REQUIREMENTS

A. Representative Sampling. All samples for monitoring purposes shall be representative of the monitored activity, 40 CFR 122.41(j).

B. Reporting of Monitoring Results. Monitoring results shall be summarized for each month and compiled for the Annual Report (AR). The AR shall be submitted to the Environmental Protection Agency, Region 10, 1200 Sixth Avenue, NPDES Compliance Unit OCE-133, Seattle, Washington 98101-3188, no later than **January 31 for the previous calendar year**.

If there is no mining activity during the year, the Permittee shall notify EPA of this fact no later than January 31 for the previous calendar year.

The AR shall also be sent to ADEC at the address in part I.F.4.

C. Monitoring Procedures. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

D. Additional Monitoring by the Permittee. If the Permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the AR. Such increased frequency shall also be indicated.

E. Records Contents. Records of monitoring information shall include:

1. The date, exact place, and time of sampling or measurements;
2. The individual(s) who performed the sampling or measurements;
3. The date(s) analyses were performed;

4. The individual(s) who performed the analyses;
5. The analytical techniques or methods used; and
6. The results of such analyses.

F. Retention of Records. The Permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least five years from the date of the sample, measurement, report or application. This period may be extended by request of the Director or ADEC at any time. Data collected on-site, copies of ARs, and a copy of this NPDES permit must be maintained on-site during the duration of activity at the permitted location.

G. Notice of Noncompliance Reporting.

1. Any noncompliance which may endanger health or the environment shall be reported as soon as the Permittee becomes aware of the circumstance. A written submission shall also be provided in the shortest reasonable period of time after the Permittee becomes aware of the occurrence.
2. The following occurrences of noncompliance shall also be reported in writing in the shortest reasonable period of time after the Permittee becomes aware of the circumstances:
 - a. Any unanticipated bypass which exceeds any effluent limitation in the permit (See Permit Part IV.G., Bypass of Treatment Facilities.); or
 - b. Any upset which exceeds any effluent limitation in the permit (See Permit Part IV.H., Upset Conditions.).
 - c. Any violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the Permit to be reported within 24 hours.
3. The written submission shall contain:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times;
 - c. The estimated time noncompliance is expected to continue if it has not been corrected;

- d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance;
4. The Director may waive the written report on a case-by-case basis if an oral report has been received within 24 hours by the NPDES Compliance Unit in Seattle, Washington, by phone, (206) 553-1846.
5. Reports shall be submitted to the addresses in Permit Part III.B., Reporting of Monitoring Results.

H. Other Noncompliance Reporting. Instances of noncompliance not required to be reported in Permit Part III.G., above, shall be reported at the time that monitoring reports for Permit Part III.B. are submitted. The reports shall contain the information listed in Permit Part III.G.3.

IV. COMPLIANCE RESPONSIBILITIES

A. Duty to Comply. The Permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The Permittee shall give advance notice to the Director and ADEC of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

B. Penalties for Violations of Permit Conditions.

1. Civil and Administrative Penalties. Pursuant to 40 CFR Part 19 and the Act, any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed the maximum amounts authorized by Section 309(d) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently \$32,500 per day for each violation).
2. Criminal Penalties:
 - a. Negligent Violations. The Act provides that any person who negligently violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall be punished by a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or by both.

- b. **Knowing Violations.** The Act provides that any person who knowingly violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall be punished by a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or by both.
- c. **Knowing Endangerment.** The Act provides that any person who knowingly violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both. A person which is an organization shall, upon conviction of violating this subparagraph, be subject to a fine of not more than \$1,000,000.
- d. **False Statements.** The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or by both.

Except as provided in permit conditions in Permit Part IV.G., Bypass of Treatment Facilities and Permit Part IV.H., Upset Conditions, nothing in this permit shall be construed to relieve the Permittee of the civil or criminal penalties for noncompliance.

- C. Need to Halt or Reduce Activity not a Defense.** It shall not be a defense for a Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- D. Duty to Mitigate.** The Permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- E. Proper Operation and Maintenance.** The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the

operation of back-up or auxiliary facilities or similar systems which are installed by a Permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

F. Removed Substances. Solids, sludges, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner so as to prevent any pollutant from such materials from entering waters of the United States.

G. Bypass of Treatment Facilities.

1. Bypass not exceeding limitations. The Permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 2 and 3 of this section.
2. Notice:
 - a. Anticipated bypass. If the Permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least 10 days before the date of the bypass.
 - b. Unanticipated bypass. The Permittee shall submit notice of an unanticipated bypass as required under Permit Part III.G., Notice of Noncompliance Reporting.
3. Prohibition of bypass.
 - a. Bypass is prohibited and the Director or ADEC may take enforcement action against a Permittee for a bypass, unless:
 - i. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - ii. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - iii. The Permittee submitted notices as required under paragraph 2 of this section.

- b. The Director and ADEC may approve an anticipated bypass, after considering its adverse effects, if the Director and ADEC determine that it will meet the three conditions listed above in paragraph 3.a. of this section.

H. Upset Conditions.

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph 2 of this section are met. An administrative review of a claim that noncompliance was caused by an upset does not represent final administrative action for any specific event. A determination is not final until formal administrative action is taken for the specific violation(s).
2. Conditions necessary for a demonstration of upset. A Permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and that the Permittee can identify the cause(s) of the upset;
 - b. The permitted facility was at the time being properly operated;
 - c. The Permittee submitted notice of the upset as required under Permit Part III.G., Notice of Noncompliance Reporting; and
 - d. The Permittee complied with any remedial measures required under Permit Part IV.D., Duty to Mitigate.
3. Burden of proof. In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof.

- I. **Toxic Pollutants.** The Permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

V. GENERAL REQUIREMENTS

A. Changes in Discharge of Toxic Substances. Notification shall be provided to the Director and ADEC as soon as the Permittee knows of, or has reason to believe:

1. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - a. One hundred micrograms per liter (100 µg/l);
 - b. Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
 - c. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or
 - d. The level established by the Director in accordance with 40 CFR 122.44(f).
2. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - a. Five hundred micrograms per liter (500 µg/l);
 - b. One milligram per liter (1 mg/l) for antimony;
 - c. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or
 - d. The level established by the Director in accordance with 40 CFR 122.44(f).

B. Planned Changes. The Permittee shall give notice to the Director and ADEC as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as determined in 40 CFR 122.29(b); or

2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Permit Part V.A.1.
 3. The alteration or addition will significantly change the location, nature or volume of discharge or the quantity of pollutants, subject to the effluent limitations, discharged.
- C. Anticipated Noncompliance.** The Permittee shall also give advance notice to the Director and ADEC of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- D. Permit Actions.** This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- E. Duty to Reapply.** If the Permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the Permittee must apply for and obtain a new permit. The NOI must be submitted at least 90 days before the expiration date of this permit.
- F. Duty to Provide Information.** The Permittee shall furnish to the Director and ADEC, within a reasonable time, any information which the Director or ADEC may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The Permittee shall also furnish to the Director or ADEC, upon request, copies of records required to be kept by this permit.
- G. Other Information.** When the Permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Director or ADEC, it shall promptly submit such facts or information.
- H. Signatory Requirements.** All applications, reports or information submitted to the Director and ADEC shall be signed and certified.
1. All permit applications shall be signed as follows:
 - a. For a corporation: by a responsible corporate officer.
 - b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.

- c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.
2. All reports required by the permit and other information requested by the Director or ADEC shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - a. The authorization is made in writing by a person described above and submitted to the Director and ADEC, and
 - b. The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
3. Changes to authorization. If an authorization under paragraph III.H.2. is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph V.H.2. must be submitted to the Director and ADEC prior to or together with any reports, information, or applications to be signed by an authorized representative.
4. Certification. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- I. **Availability of Reports.** Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Director and ADEC. As required by the Act, permit applications, permits and effluent data shall not be considered confidential.

- J. Oil and Hazardous Substance Liability.** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, or penalties to which the Permittee is or may be subject under Section 311 of the Act.
- K. Property Rights.** The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.
- L. Severability.** The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.
- M. State Laws.** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Act.
- N. Paperwork Reduction Act.** EPA has reviewed the requirements imposed on regulated facilities in this general permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. The information collection requirements of this permit have already been approved by the Office of Management and Budget in submission made for the NPDES permit program under the provisions of the CWA.
- O. Inspection and Entry.** The Permittee shall allow the Director, ADEC, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon the presentation of credentials and other documents as may be required by law, to:
1. Enter upon the Permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
 2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
 3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
 4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

P. Transfers. This permit may be automatically transferred to a new permittee if:

1. The current permittee notifies the Director at least 30 days in advance of the proposed transfer date;
2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
3. The Director does not notify the existing permittee and the proposed new permittee of his or her intent to modify, or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph 2 above.

VI. DEFINITIONS

- A. "Active Stream Channel" means that part of the channel that is below the level of the water. Unvegetated gravel bars are considered part of the active stream channel.
- B. "ADEC" means Alaska Department of Environmental Conservation.
- C. "Bypass" means the intentional diversion of waste streams around any portion of a treatment facility.
- D. "Director" means the Regional Administrator of the United States Environmental Protection Agency, Region 10 or an authorized representative.
- E. "Dredging Operation" means a medium-size suction dredge or the simultaneous operation of a medium-size suction dredge and a dredge with a nozzle four inches or less within 800 feet of one another.
- F. "Expanding Facility" means any facility increasing in size such as to affect the discharge but operating within the permit area covered by its general permit.
- G. "New Facility" means a facility that has not operated in the area specified in the NOI prior to the submission of the NOI.
- H. "Receiving Water" means waters such as lakes, rivers, streams, creeks, wetlands or any other surface waters that receive wastewater discharges.
- I. "Recommencing Facilities" are those facilities that may have let permit coverage lapse but still meet the coverage requirements of the GP.

- J. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- K. "Silt and Clay" are soil particles having a diameter of less than 0.002 mm (2 microns).
- L. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

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APPENDIX A
MEDIUM-SIZE SUCTION DREDGE PERMIT: AKG-37-1000
NOTICE OF INTENT INFORMATION SHEET

PERMITTEE NAME			PREVIOUS NPDES PERMIT NUMBER (if any) AKG-37-1
ADDRESS	<u>SUMMER</u>	<u>WINTER</u>	WATER THAT THE FACILITY DIRECTLY DISCHARGES TO:
PHONE			
OPERATOR <input type="checkbox"/> Check if same as Permittee			PLEASE PROVIDE A DRAWING OF YOUR OPERATION ON THE BACK OF THE NOI SHEET THAT IS SUBMITTED
ADDRESS	<u>SUMMER</u>	<u>WINTER</u>	
PHONE			
FACILITY NAME		If a facility being permitted for the first time is located in any of the excluded areas listed in Permit Part II.C.1., (see back of NOI) the general permit is not applicable to your facility. You must obtain an individual NPDES permit for discharges to waters of the U.S.	LATITUDE:
NEAREST TOWN			LONGITUDE:
MINING DISTRICT			
QUAD MAP, TOWNSHIP, RANGE, SECTION MERIDIANS: __ Umiat __ Kateel __ Fairbanks __ Seward __ Copper River 			
Alaska Department of Natural Resources - Office of Habitat and Permitting Contact & Title:			
Size of Dredging Operation	Medium (over 6" but not more than 10")	Small (not more than 4")	
SIGNATURE:		DATE:	
PRINTED NAME:			
I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.			

Permittee Name:	Previous Permit No. (if any) AKG-37-1
Receiving Water:	

Drawing:

Permit Part II.C.1 reads: This general permit does not apply to facilities that are proposed to be located in National Parks System Units (i.e., Parks and Preserves), National Monuments, National Sanctuaries, National Wildlife Refuges, National Conservation Areas, National Wilderness Areas, National Critical Habitat Areas, within one nautical mile of a Stellar sea lion rookery or haulout area or waters adjacent to the boundaries of areas designated as wild under the Wild & Scenic Rivers Act.

APPENDIX B

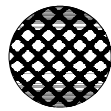
ESA Critical Habitat Areas



Spectacled
Eider



Steller's
Eider



Both

